

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

OPTIS WIRELESS TECH., LLC.,
 PANOPTIS PATENT MANAGEMENT,
 LLC., and OPTIS CELLULAR
 TECHNOLOGY, LLC.,

Plaintiffs,

V.

HUAWEI TECHNOLOGIES CO.
LTD., HUAWEI DEVICE USA, INC.,
and HUAWEI DEVICE CO. LTD.,

Defendants.

Case No. 2:18-CV-00123-JRG-RSP

ORDER

Defendants Huawei Device USA Inc. and Huawei Device Co., Ltd. (collectively, “Huawei”) move to strike paragraphs 3 – 41 of the August 1, 2018 supplemental expert report of Dr. Michael Akemann, who is Plaintiffs' Optis Wireless Technology, LLC, Optis Cellular Technology, LLC, and PanOptis Patent Management, LLC’s (collectively, “PanOptis”) economic expert. After considering the parties’ written submissions and arguments presented at the hearing on August 17, 2018, the Court **GRANTS** Huawei’s motion to strike.

In its briefing, PanOptis acknowledges that these portions of Dr. Akemann’s supplemental report “consist solely of rebuttal opinion to the June 5th Declaration of Xiaowu (Emil) Zhang, Dkt. 170-1.” Dkt. 256 at 1. Zhang’s declaration was stricken in part at the July 27, 2018 pre-trial conference, where the Court ruled that Zhang was permitted to offer opinions “related to his or Huawei’s mental impressions” during the negotiations over the two relevant portfolios in this action, Dkt. 243 at 14. Otherwise, Zhang’s opinion about the fairness of PanOptis’s global

licensing offer was deemed an untimely expert opinion, and thus prohibited. *Id.* Having heard the parties' arguments at today's hearing, the Court clarifies that paragraphs 11-12 of Zhang's declaration are also untimely expert opinion. Without an expert opinion from Zhang to rebut, Dr. Akemann's supplemental report is no longer needed. Accordingly, the supplemental report is stricken.

The Court also clarifies the scope of the Pretrial Order on Huawei's Motion in Limine No. 7 to include the following:

7. Granted-in-part. No reference to other litigation or proceedings may be made, except for the discussion of the *Unwired Planet* case, the *TCL v. Ericsson* case, and any other cases to the extent discussed in the expert reports.

SIGNED this 17th day of August, 2018.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE